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said monitoring device is activated on an  
intermittent sampling basis.

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REMARKS

Reconsideration of the present application is respectfully requested.

Claims 1-3, 8, 9 and 11 stand rejected under 35 USC §102(e) over Pinsley et al. Although Applicants respectfully assert that Applicants' claims have been misread onto Pinsley et al., Applicants have amended claims 1 and 8 to make explicit what was already implicit in the claim as originally filed. In particular, Applicants' claimed invention includes a live agent of the service provider. In addition, Applicants' claims require that the feedback data be associated with agent identifying data from the telecommunications server. Since Pinsley et al. can only be fairly characterized as contemplating something other than a plurality of live agents and data identifying those live agents, it cannot properly support a §102(e) rejection against any of Applicants' claims. Therefore, Applicants respectfully request that all of the §102(e) rejections based upon Pinsley et al. be withdrawn.

Claims 1-15 stand rejected under 35 USC §102(e) over Homayoun. Applicants respectfully assert that this rejection is not well made. In particular, the office action contains citations to specific columns and line numbers for supposedly disclosing all of Applicants' claimed features, except for the feature that Homayoun does not disclose. In other words, conspicuously missing from the office action is any citation as to where one could find Applicants' requirement that feedback be requested from the customer before the communication link is terminated. Not only does Homayoun flatly fail to teach this aspect of Applicants' claimed invention, it actually teaches the opposite. In particular, Homayoun makes it explicitly clear that his invention starts "upon completion of the communication". See column 3, lines

36-46. At column 6, lines 35-38, Homayoun states that "call termination detection, section 72 determines when the calling party and at least one called party have ended their communication." At column 8, beginning at line 12, Homayoun explicitly again makes it clear that "once the communication has been terminated . . ." Thus, there should be no dispute that Homayoun flatly fails to teach requesting customer feedback before the communication link is terminated, as would be required to support a proper \$102 rejection. Therefore, Applicants respectfully request that all of the outstanding \$102 rejections based upon Homayoun be withdrawn.

Apart from the fact that Homayoun fails to teach requesting feedback before the communication link is terminated, Homayoun makes it explicitly clear, especially at column 3, lines 47-55, that it is concerned with obtaining feedback regarding communications infrastructure, which is provided by a party that is different from the parties that communicated over the communication link, as in Applicants' claimed invention. Thus, Applicants claims can only be read onto Homayoun by ignoring and/or contorting Applicants' claim language in a way that contradicts both case law and the explicit requirements stated in the MPEP. In other words, a reference must show exactly what an Applicant claimed in order to support a proper \$102 rejection. In this case Homayoun fails to do so. Thus, Applicants again respectfully request that all of the outstanding \$102 rejections based upon Homayoun be withdrawn.

Claims 16-19, 22, 23, 29-31 and 34 stand rejected under 35 USC \$102(e) over Shaffer et al. In response, Applicants have amended independent claims 16 and 29 to make it clear that the triggered action includes activating a request for customer feedback before the communication link is terminated. Since original claims 26 and 37, which contain some of these features, were not included in the \$102(e) rejection, there appears to be no dispute that Shaffer et al. fails to disclose the subject matter of Applicants' amended

claims. Therefore, Applicants respectfully request that the outstanding §102(e) rejections based upon Shaffer et al. be withdrawn.

Claims 20, 21, 26, 32, 33 and 37 stand rejected under 35 USC §103(a) over Shaffer et al. in view of Campbell et al. Applicants respectfully disagree, and assert that Shaffer et al. implicitly teaches away from Applicants' claimed invention. In particular, there should be no dispute that Shaffer et al. is directed to detecting agent performance problems of a type detectable without requesting any information from the calling customer. In other words, Shaffer et al. teaches away from seeking customer perceptions as a way of assessing agent performance, and instead is directed to supposedly objective indicators of poor performance. These supposedly objective performance indicators are listed at column 4, lines 44-64. Thus, because Shaffer et al. can only fairly be interpreted as teaching away from Applicants claimed invention, all of the §103(a) rejections should be withdrawn.

Apart from Shaffer et al. teaching away from Applicants' claimed invention, the office action asserts that Campbell et al. teaches Applicants' claimed requirement that the triggered action include requesting customer feedback before the communication link is terminated. The office action asserts that this aspect of the claimed invention is taught in Campbell at column 1, lines 52-54. Applicants respectfully disagree. Not only is Campbell et al. directed to something completely different than Applicants' claimed invention, but the cited passage does not motivate one skilled in the art to obtain customer feedback before the communication link is terminated. Instead, Campbell et al. states that its IVR services can be used for "caller surveys". There should be no dispute that merely because Campbell suggests surveying customers, that it necessarily means surveying customers for feedback regarding a provided service. In other words, no one with ordinary skill in the

art would interpret the phrase "caller surveys" as suggesting the gathering of feedback data during a call, as required by Applicants' claimed invention. There should be no dispute that a survey could include questions entirely unrelated to anything that could be properly characterized as feedback. Therefore, when one views the references as a whole, Shaffer et al. teaches away from Applicants' claimed invention, Campbell et al. does not teach what the office action asserts, and there is no evidence of record to support the notion that one with ordinary skill in the art would be motivated to seek customer feedback as a triggered action before a communication link is terminated, as required by Applicants' claims. Therefore, Applicants respectfully request that the outstanding §103(a) rejections be withdrawn.

In view of the amending changes made and arguments submitted, this application is believed to be in condition for allowance of claims 1-25, 27-36 and 38-39. However, if the examiner believes that some minor additional clarification would put this application in even better condition for allowance, the examiner is invited to contact the undersigned attorney at (812) 333-5355 in order to hasten the prosecution of this application.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "MBM EA", written in a cursive, stylized script.

Michael B. McNeil

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APPENDIX  
MARKED-UP AMENDED CLAIMS

Please amend claims 1, 2, 4, 5, 7, 8, 12, 13, 16, 19, 21, 22, 24, 25, 26, 28, 29, 34, 36 and 39 as follows.

1. A method of obtaining customer feedback comprising the steps of:

establishing a communication link at least partially via a telecommunications server with at least one of a plurality of live agents of a service provider that originates from a customer;

providing a service at least in part by the live agent to the customer at least in part via said communication link;

requesting the customer to provide feedback data before [the customer terminates] said communication link is terminated;

if the customer provides feedback data, then associating said feedback data with telecommunications server data that includes an identity of the live agent.

2. The method of claim 1 further comprising a step of storing said telecommunications server data in association with said feedback data.

4. The method of claim 3 wherein said providing step includes a step of providing said customer with information relating to a third party identified by the customer.

5. The method of claim 4 wherein said providing step includes an exchange of information between said customer and [a] said live agent of said service provider.

7. The method of claim 1 further comprising a step of recognizing feedback data originating in at least one of a keyed format and a voice format.

8. A system for obtaining customer feedback comprising:

a communication link between a customer and at least one of a plurality of live agents of a service provider that originates from said customer and includes a telecommunications server;

a service provided to said customer at least in part by the live agent at least in part via said communication link;

a request to said customer to provide feedback data before [said customer terminates] said communication link is terminated; and

an association of provided feedback data with telecommunications server data that includes an identity of the live agent.

12. The system of claim 11 wherein said service includes a provision of information to said customer relating to a third party identified by the customer.

13. The system of claim 12 wherein said service includes an exchange of information between said customer and [a] said live agent of said service provider.

16. A method of monitoring a provision of a service comprising the steps of:

establishing a communication link with a live agent of a service provider that originates from a customer;

monitoring an exchange of information between said customer and said live agent of said service provider, and said exchange of information relating to a service; [and]

triggering an action if said monitoring step detects a predetermined condition, and said predetermined condition includes at least one of a predetermined utterance, a predetermined keyed entry, and a predetermined change in a qualitative aspect of a spoken portion of said exchange of information; and

said action includes requesting feedback from said customer regarding said service before the communication link is terminated.

19. The method of claim 16 wherein said exchange of information occurs between said customer and [a] said live agent of said service provider; and

said predetermined change includes a change in tonal quality in utterances originating from at least one of said customer and said live agent.

21. The method of claim 16 wherein said exchange of information occurs between said customer and [a] said live agent of said service provider; and

said predetermined utterance includes a predetermined word originating from at least one of said customer and said live agent.

22. The method of claim 16 wherein said action includes alerting [a] another live agent of said service provider before said communication link is terminated.

24. The method of claim 16 wherein said action includes recording data relating to said exchange of information and data identifying said live agent.

25. The method of claim 24 wherein said exchange of information occurs between said customer and [a] said live agent of said service provider; and

said data includes at least one of said predetermined condition and an identity of said live agent.

26. The method of claim 16 [wherein said action includes requesting] including a step of associating feedback from said customer regarding said service with data that identifies said live agent.

28. The method of claim 16 wherein said establish step is performed with a plurality of different customers; and

said action includes at least one of alerting [a] another live agent of said service provider, recording data relating to said exchange of information and requesting feedback from said customer regarding said service; and

said monitoring step is performed on an intermittent sampling basis.

29. A system for monitoring a provision of a service comprising:

a communication link between a customer and a live agent of a service provider that originates from said customer;

an exchange of information between said customer and said live agent said service provider, said information relating to a service;

a monitoring device coupled to said communication link; [and]

a triggered action if said monitoring device detects a predetermined condition that includes at least one of a predetermined utterance, a predetermined keyed entry, and a predetermined change in qualitative aspect of a spoken portion of said exchange of information;

a customer feedback system; and



said triggered action includes an activation of said customer feedback system before said communication link is terminated.

34. The system of claim 29 wherein said triggered action includes an alert to [a] another live agent of said service provider before said communication link is terminated.

36. The system of claim 35 wherein said exchange of information occurs between said customer and [a] said live agent of said service provider; and

said recorder stores data that includes at least one of said predetermined condition and an identity of said live agent.

39. The system of claim 29 wherein said service provider provides services to a plurality of different customers; and

said monitoring device includes at least one of a voice volume change detector, a voice tonal change detector, a speech recognition subsystem and a character string recognition subsystem;

said action includes at least one of an alert to [a] another live agent of said service provider, an activation of a recorder and an activation of said customer feedback system; and

said monitoring device is activated on an intermittent sampling basis.